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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,788	07/13/2001	Morihiro Sada	211205US3	1485

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EXAMINER

BECKER, DREW E

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 07/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/903,788

Applicant(s)

SADA ET AL.

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-11 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. This application contains claims 1-5 drawn to an invention nonelected with traverse in Paper No. 6. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6, 9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crain [Pat. No. 1,632,176] in view of Pfleiderer et al [Pat. No. 505,175] and Wrasse [Pat. No. 5,176,124].

Crain teaches an apparatus comprising a chain, forge conveyor which horizontally transports a pile of burning charcoal from a leading end to a trailing exhaust end (Figure 1, #27-28) and a cooking chamber above the forge conveyor (Figure 1, #10). Crain does not teach a temperature sensor, food conveyor, and a variable output air blower. Pfleiderer et al teach an apparatus comprising a chain, food conveyor (Figure 1, t-T). Wrasse teaches an apparatus comprising an air blower (Figure 1, #21), a damper plate (Figure 1, #16), and a temperature sensor (Figure 1, #25). It would have been obvious to one of ordinary skill in the art to incorporate the ingredients conveyor of Pfleiderer et

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al into the invention of Crain since both are directed to cooking devices, since Crain already included a cooking chamber (Figure 1, 10), and since Pfeiderer et al teaches that the ingredients conveyor allowed the food to be removed without having to reach into the oven (page 1, lines 10-16) and thus reduced the risk of burning the operator. It would have been obvious to one of ordinary skill in the art to incorporate the temperature sensor, blower, and damper of Wrasse into the invention of Crain since both are directed to cooking devices, since Crain already included a charcoal heat source which required a steady supply of air (page 1, lines 4 & 69), since the blower of Wrasse provided a steady amount of air to provide complete combustion (abstract), since charcoal grills commonly included temperature sensors, such as the thermometer of Wrasse (Figure 1, 25), in order to monitor the cooking process and prevent burning, and since the damper of Wrasse would have provided a means to regulate the amount of air flow from the blower based upon the detected temperature within the device and thus better control the cooking process (column 4, lines 21-29).

4. Claims 7-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crain, in view of Pfeiderer et al and Wrasse, as applied above, and further in view of Nalbach [Pat. No. 2,390,455].

Crain, Pfeiderer et al, and Wrasse teach the above mentioned components. Crain, Pfeiderer et al, and Wrasse do not teach a mesh (or net) conveyor. Nalbach teaches an apparatus comprising a mesh (or net) conveyor (Figure 4, 20). It would have been obvious to one of ordinary skill in the art to incorporate the mesh (or net) conveyor of Nalbach into the invention of Crain, in view of Pfeiderer et al and Wrasse, since all are

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directed to cooking devices, since Crain included spaced food supports which permitted air to flow around the food (page 1, lines 77-94), since Pfleiderer et al already included a food ingredients conveyor (Figure 1, t-T), and since mesh conveyors were commonly used in cooking devices as shown by Nalbach.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crain, in view of Pfleiderer et al and Wrasse, as applied above, and further in view of Harris [Pat. No. 3,897,722].

Crain, Pfleiderer et al, and Wrasse teach the above mentioned components. Crain, Pfleiderer et al, and Wrasse do not teach a sauce applying means. Harris teaches a cooking device comprising a brush for applying sauce (Figure 1, 25). It would have been obvious to one of ordinary skill in the art to incorporate the brush of Harris into the invention of Crain since both are directed to charcoal cooking devices, since Crain was intended to be used for cooking meat (page 1, line 2), and since barbeque sauce was commonly applied to grilled meat as taught by Harris (column 1, lines 5-28).

Response to Arguments

6. Applicant's arguments filed May 20, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., contact of the flames with the food) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that Wrasse does not disclose a temperature sensor within the oven and the blower being controlled via the temperature sensor. However, Wrasse clearly teaches a temperature sensor inside the oven chamber (Figure 2, #25; column 3, line 56) as well as controlling the blower output by observing the temperature sensor and adjusting the blower damper in order to raise or lower the oven temperature (column 4, lines 21-29).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.



Drew E Becker
Examiner
Art Unit 1761

July 23, 2003